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JUL 29 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

July 29, 1994

Mr. William Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, D.C. 20554

Re: Reply Comments of Sammons Communications, Inc. and TCA Cable TV, Inc.
MM Docket No. 92-266

Dear Mr. Caton:

Enclosed please find an original and four copies of the above referenced Reply Comments.

Should you have any questions regarding this matter, please contact the undersigned counsel.

Sincerely,

Thomas B. Magee
Counsel for
Sammons Communications, Inc. and
TCA Cable TV, Inc.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation	)	MM Docket No. 92-266

REPLY COMMENTS OF
SAMMONS COMMUNICATIONS, INC.
AND TCA CABLE TV, INC.

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July 29, 1994

SUMMARY OF ARGUMENT

Sammons Communications, Inc. ("Sammons") and TCA Cable TV, Inc. ("TCA") support the NCTA industry compromise. The existing going forward rules do not provide marketplace incentives for operators to add new programming services, and unfairly discriminate against low cost programming services. The NCTA compromise provides the necessary incentives to add new program services to existing channels without unfairly discriminating against low priced program services. The NCTA compromise does not, however, address two significant problems. Under the current rules, as modified by the NCTA compromise, there will still be non-marketplace upward pressure on rates for regulated services and there are strong disincentives for operators to upgrade existing facilities.

To address the problem of escalating rates for regulated services, Sammons and TCA recommend that the Commission adopt rules that will permit cable operators to offer high priced cable program services on an a la carte basis. Sammons and TCA would define a high priced cable service as a cable program service that increases its price to operators by an amount greater than the increase in the GNP-PI or a program service that increases its rate charged cable operators to an amount greater than the operator's maximum permitted per channel rate.

To address the disincentive, under the existing rules, for operators to upgrade their facilities, Sammons and TCA propose revising the streamlined cost of service rules for network upgrades. Under Sammons and TCA's proposal, operators would be permitted to obtain approval for upgrades prior to beginning construction. Sammons and TCA submit that without such a rule change, there will not be debt or equity available to complete the information superhighway.

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REPLY COMMENTS OF
SAMMONS COMMUNICATIONS, INC. AND
TCA CABLE TV, INC.

I. INTRODUCTION

Sammons Communications, Inc. ("Sammons") and TCA Cable TV, Inc. ("TCA"), by their attorneys, respectfully submits their Reply Comments in the above-captioned notice of proposed rulemaking. Sammons and TCA are multiple cable television system operators that provides cable television service throughout the United States.

Sammons and TCA support the NCTA industry compromise. The existing going forward rules do not provide marketplace incentives for operators to add new programming services, and unfairly discriminate against low cost programming services. The NCTA compromise provides the necessary incentives to add new program services to existing channels without unfairly discriminating against low priced program services. The NCTA compromise does not, however, address two significant problems. Under the current rules, as modified by the NCTA compromise, there will still be non-marketplace upward pressure on rates for regulated services and there are strong disincentives for operators to upgrade existing facilities.

II. PRICE GOVERNOR

The Commission has adopted as key goals of its rate rules the reduction of what consumers pay for regulated services[1] and the control of escalating prices.[2] To accomplish these goals the Commission has placed strong controls on the prices that cable operators may charge for regulated services. As a result the average price subscribers pay for regulated services has decreased 16.46%.[3] However, since the Commission must allow increases in external costs to be passed through to consumers to avoid an unconstitutional taking, prices to consumers will continue to rise. External costs that are not subject to market forces will unnaturally increase the price to the consumers.

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[1] See generally, Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation, "Second Order on Reconsideration, Fourth Report and Order, and Fifth Notice of Proposed Rulemaking," MM Docket No. 92-266, at ¶ 15 (released March 30, 1994) ("March 30, 1994 Revised Benchmark Order").

[2] See generally, Id., at ¶ 43.

[3] FCC, "Report on the Cable Service Bureau's Survey on the Rate Impact of the Federal Communications Commission's Revised Rate Regulations," Docket No. DA 94-767, at 2 (released July 14, 1994).

The cost of programming is a major external cost that is not presently subject to market forces. Sammons has performed an analysis of its operating costs from 1990 until June of 1994. The results of this study are attached in chart form as Attachment A. As can be seen from this chart, since 1990 all operating costs for Sammons, except for programming, have remained relatively constant. Programming costs, however, have escalated dramatically. In fact, if the trend continues, the cost of programming will have doubled by 1995. The increased programming costs are tied almost exclusively to increases in existing services, since Sammons has added few new programming services to its systems since 1990. For Sammons and TCA, the single greatest pressure on increased regulated cable service rates is directly tied to the cost of programming.

At the present time, there are no marketplace controls or "governors" on the price programmers charge cable operators for programming. For most services a cable operator has little option but to continue carrying a service once it is offered to subscribers. Subscriber reaction to the deletion of a service is often very acrimonious. This reaction is also very often a result of direct programmer involvement. For example, when various operators have tried to remove MTV from the basic level of service because of concern over the program's content, MTV has actively promoted protests against the operator's decision.[4] In addition, most programming agreements contain automatic escalation clauses, which provide the programmer with the option to increase the price in addition to scheduled increases over the term of the contract, and specify where the program service must be carried.

The automatic pass-through of increased program costs, while necessary for the financial health of cable operators, has eliminated any brakes that may have been placed on a programmer arbitrarily raising its rates. As the attached chart shows, Sammons' experience has been an almost doubling of programming cost since 1990. At the same time, there has been little additional benefit provided to cable operators or consumers for the increased price..

While increased carriage of NFL football, NBA basketball, or an individual team's games may be sufficiently attractive to certain subscribers to justify those subscribers paying more, it does not necessarily follow that all subscribers should bear this increased cost. However, the terms of many program contracts preclude the operator from moving such increased-cost programming to a tier or offering the programming on an a la carte basis.

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[4] See Mitchell, OPS Side with Sammons, Slam MTV, Multichannel News (Jan. 13, 1992), at 3; Mitchell, TCA Doesn't Want its MTV, Multichannel News (Jul. 1, 1991), at 1, 36. These articles are attached to these Reply Comments as Attachments B and C.

Sammons's experience with a regional sports service is illustrative of how restrictive program contracts can force the majority of the subscribers to subsidize the cost of relatively expensive programming desired by a small percentage of the subscribers. When this regional sports service was first launched, it was carried on a per-channel premium basis. In 1990, Sammons was required to pay a license fee for the service based on a minimum of 15% of its subscriber base. In 1991, the minimum was raised by the service to 16.5%, even though only 8% of the subscribers took the service. This resulted in Sammons losing approximately $6,800 a month on the service. In 1992, the license fee was changed to a flat rate regardless of the number of subscribers to the service. This resulted in a loss to Sammons of approximately $13,000 per month. In October of 1992, the programmer proposed an increase in the flat fee for 1993 and 1994. In December of 1992, Sammons surveyed the subscribers to the service to determine if they would pay a higher monthly rate so the Company could break even on the proposed flat fee. The results were that 61% said no; 23% said yes; and 16% were undecided. Negotiations with the service were continued, but no contract was signed. In June 1993, the service was dropped to make room for a must-carry signal. In December of 1993, the service was relaunched, with the consent of the service but without a contract, as a premium a la carte service. The new retail rate is three dollars less than the previous rate. However, only 4% of the subscribers take the service. As a result of the FCC's pass-through provisions, the service has been requesting a contract where they would be carried as a regulated program service. Negotiations are continuing with the service. However, the service is threatening to cease delivery unless a contract for carriage as a regulated program can be reached. Sammons is reluctant to make all subscribers pay for a service that only 4% of the subscribers are currently taking. Sammons is also reluctant to drop the service because the 4% of the subscribers that do take the service really want the service. Sammons and TCA have also been faced with the situation where a program service expends a large sum to acquire programming (e.g., sports programming or original movie product) without consulting its affiliates. The service then passes along the increased costs directly to the cable operator through automatic escalation clauses in the contract. Even though a small percentage of the cable subscribers may desire this new programming, all subscribers are forced to absorb this cost increase.[5] The increased

[5]In some instances, with sports programming, an operator may be "permitted" to delete the additional programming. However, since there are some subscribers that do value the programming, a better solution would be for the operator to make the additional programming available only to subscribers that are willing to pay extra. The present contracts do not permit this option.

"extraordinary costs"[6] to the cable operator are especially inequitable since the operator will typically obtain little if any additional subscribers and little if any increase in the level of subscriber satisfaction. At the same time, the program service supplements both its advertising revenues and its subscription revenues.

These results are contrary to the Commission's interpretation of the intent of Congress. However, under the present rules, an operator has little option but to pass along these increased costs to all subscribers. Accordingly, Sammons and TCA believe that a marketplace governor on programming rates must be implemented.

The most effective governor on rates would be if operators had the option to deliver high priced programming and programming which costs rise precipitously only to those subscribers that found the value of the programming consistent with the price charged. However, most high priced program services are precisely the same program services that prohibit operators from delivering the service on anything other than the most basic level of service. Moreover, many of these services calculate license fees based on all subscribers rather than the number of subscribers receiving the service.

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[6]"Extraordinary costs" is a term used in some program agreements to describe the expense of acquiring high priced events or programming added to a cable network, resulting in increased license fees or surcharges.

Several program services also charge one rate if the service is carried on Basic, a higher rate if it is carried on a tier other than basic, plus the operator must pay the programmer as if all subscribers receive the service. In addition, some high price program services that allow delivery on an a la carte basis still require the operator to pay the higher a la carte rate but based on the total number or a guaranteed minimum number of subscribers on the system, instead of just the number of subscribers that take the service. If anything is to be learned from the public dissatisfaction since the 1984 Cable Act, it is that subscribers do not like to pay increased prices unless they see an increase in value. The present system seems destined to promote, not diminish, this discontent.

By giving operators more control over the placement of high priced programming services, Sammons and TCA believe that a marketplace governor would be placed on rapidly escalating programming costs and concomitantly have the salutary effect of keeping the cost of cable service lower for the vast majority of cable subscribers. Accordingly, Sammons and TCA propose that the Commission amend its rules to require high priced program services to allow cable operators, at the operator's sole option, to provide those services on an a la carte basis. The programmer would have the right to set the a la carte price charged to the operator, provided that the operator is required only to pay based on the actual number of subscribers that take the service. Thus, programmers would be motivated to price their service at levels acceptable to potential subscribers and only those subscribers that wished to pay the increased cost would have to pay the increased cost. Another salutary affect of this rule change is that, as high priced established marquee program services move from Basic to a la carte, additional room would be made available for new entry services that would benefit the most from the packaging benefits of regulated tiers of programming. This is precisely the type of migration contemplated by the 1992 cable amendments to the Communications Act, as evidenced by the legislative history of the Act, which provides in pertinent part:

> This provision and section 623(c) demonstrate the Committee's belief that greater unbundling of offerings leads to more subscriber choice and greater competition among program services. Through unbundling, subscribers have greater assurance that they are choosing only those program services they wish to see and are not paying for programs they do not desire. With bundling, programmers have an incentive to spend more (for example, for certain types of sports programming) knowing that the cost will be spread across those who do not watch such programming. Contracts that contain provisions that restrict the offering of services on an unbundled basis can impede competition among video services and are inconsistent with the Committee's desire to promote competition.
>
> The Committee also recognizes that there can be legitimate reasons, albeit limited, for bundling. For example, there may also be a need to nurture certain offerings or help market them by

> exposing them to more subscribers. For example, the television networks carry this out by placing a new program between already highly rated shows. Many of these objectives could be carried out through means other than bundling large amounts of programs together, few of which any single subscriber wants.
>
> . . . In sum, one of the prime goals of the legislation is to enhance subscriber choice. Unbundling is a major step in this direction. Cable operators and programmers are urged to work toward this objective, while also seeking to accomplish other legitimate goals.

Senate Committee on Commerce, Science, and Transportation, S. Rep. No. 92, 102d Cong., 1st Sess. 77 (1991).

Congress' concern over bundling and its recognition that bundling does serve legitimate purposes is well placed. It is because of this tension that Sammons and TCA believe that it is contrary to Congressional intent to permit program providers to unreasonably force carriage of their service on a regulated tier of service.

Sammons and TCA suggest defining high priced programming as (i) any program service that increase the price to operators in a given year by an amount greater than the amount of the increase in the GNP-PI for that previous 12 month period, or (ii) any program service that charges an operator more per subscriber than that operator's maximum permitted rate per channel. These fiscal triggers have the advantage of consistency with the Commission's existing rate rules.

When the Commission allowed operators to pass along increases in the GNP-PI, it did so on the assumption that such increases accurately reflected the average increase in non-exogenous operating costs for the operator. This logic is equally applicable to programmers. Some programmers may complain that such a restriction will not allow for the pass-through of increased costs for newly acquired product. This may be true if the programmer insists on basic or expanded basic carriage. However, it is a misplaced assumption that all increased expenditures in the acquisition of programming product are beneficial to all subscribers. Subscribers that do not watch a particular programming service may not feel that they wish to pay more on their cable bill because the service has decided to acquire more original product. By the same token, a cable operator, much the same as television broadcast station affiliates, may decide that a more attractive program service enhances the overall perception of its Basic package and may keep the program service on Basic, provided the increased cost is not too great. Thus, the program networks will need to pay closer attention to the market demand for their product and the product's perceived value before making massive outlays for new program product. Accordingly, use of the GNP-PI is an attractive and logical element in the definition of a high priced program service.

When the Commission adopted the original benchmark and now the maximum permitted price per channel, it did so on the assumption that such a rate would in most instances allow the cable operator to recover the cost of the programming on that channel, the overhead for that channel and a reasonable profit.[7] Program services that charge cable operators more than the maximum permitted per channel charge allowed by the FCC's rules are perforce charging operators a disproportionate share of the operator's regulated revenues. In some instances, this increased cost may be justified by the overall benefit it provides to a package of regulated programming. In those instances, the operator would be free to continue carriage of the service on a regulated tier. In other instances, the disproportionate cost is more indicative of the program service's market dominance and is not reflective of the value to either the operator or the subscriber.

By defining such program services as high priced services, the operator will be able to make carriage determinations based on the value of the programming. Programmers will also need to be sensitive to the actual value of their product when setting the price to cable operators. A program service priced consistent with its value would be carried as a regulated program service. A program service priced higher than its value to a regulated program service would be offered to those subscribers that found the

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[7]<u>See</u> March 30, 1994 Revised Benchmark Order, at ¶23; <u>See generally</u> <u>Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation</u>, "Report and Order and Further Notice of Proposed Rulemaking," MM Docket No. 92-266 (released May 3, 1993).

price/value ratio acceptable. At the present time, Sammons and TCA average 30 channels of regulated cable programming with only two services costing more than the average FCC mandated maximum permitted rate per channel.

Program services that presently charge more than the maximum permitted rate per channel could be protected from undue disruption if the Commission grandfathered those rates, provided the existing rate is not increased. As such, if the service does not increase its existing rate above the rate charged as of the date of the adoption of the rules, then they would not be a "high priced" service.

The price governor proposed by Sammons and TCA for high priced services would not interfere with existing contracts unless and until there was an increase in the program license fee. As proposed, the operators' right to demand an a la carte price would occur only after an increase in the price of the service to the operator.

Moreover, the Communications Act provides the Commission with the necessary authority to preempt the terms of existing contracts between programmers and cable operators to affect the purposes of its rate regulation obligation.

Section 623 of the Act mandates the Commission to establish a rate regulation program that will ensure that regulated program service offerings be available at reasonable rates.[8] To ensure that the FCC was able to fulfil its obligations, Congress contemplated, and the Commission so interpreted, the mandate to extend to preemption and supersession of franchises and other contracts whose provisions were inconsistent with the Act. Section 623 intrinsically confers broad preemptive powers upon the Commission by the very fact that it expressly reserves, in Section 623(j), only a narrow category of contracts for a limited duration from the scope and application of rate regulation.[9] By grandfathering only some contracts with specific provisions, Congress demonstrated that it had no intent to exclude all existing contracts from the application of the statute or the Commission's implementing regulations.

The Commission has recognized its preemption authority in promulgating and implementing its cable rate regulations. For example, the Commission preempted agreements between cable operators and franchise authorities where performance required the franchising authority to forbear from certifying to

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[8]47 U.S.C. § 543(b),(c).

[9]47 U.S.C. § 543(j). Section 623(j) permits franchising authorities to regulate rates pursuant to pre-July 1, 1990 agreements with cable operators where the cable operator did not meet the FCC's then-operable 3-broadcast signal effective competition standard under former 47 C.F.R. § 76.33 (1990) for the remaining term of any such contracts.

regulate the cable operators' rates.[10] Similarly, the Commission has thus far declined to permit cable operators and franchising authorities to mutually agree to extend the deadline within which a cable operator must submit its rate justifications.[11]

The scope and application of the Commission's rate regulation jurisdiction does not distinguish among parties in the agreements it may preempt. Moreover, in other Cable Act contexts where the Act is silent, the Commission has preempted cable programming affiliation agreements where the same were inconsistent with the Act's purposes and with the Commission's regulatory objectives thereunder. For example, in its Report and Order implementing its "must-carry" regulations, the Commission preempted channel position requirements of cable programming affiliation agreements that interfered with the channel position requirements of Section 76.57 of the Commission's regulations.[12] In "program access," the Commission preempted provisions of affiliation agreements with satellite-delivered vertically integrated programming services that were exclusive and that otherwise contained

[10]First Order on Reconsideration, Second Report and Order, and Third Notice of Proposed Rulemaking, MM Docket No. 92-266, FCC 93-428, 9 FCC Rcd. 1164 (1993), paras. 71-72.

[11]Questions and Answers on Cable Television Rate Regulation, Mimeo No. 42927 (May 6, 1994) at 7, Q&A 19.

[12]Report and Order, MM Docket No. 92-259, FCC 93-144 (released March 29, 1993), para. 89; 47 C.F.R. § 76.57.

discriminatory provisions as among cable operators and other multichannel video programming distributors.[13]

In both the "must-carry" and "program access" preemptions, the Commission recognized that the statute did not specifically require or authorize them.[14] The Commission was persuaded that both sections 614 and 615 ("must-carry") and section 628 ("program access") of the Act justified the preemptions because the respective provisions each expressly grandfathered only a narrow class of contracts, which Congress would not have done had it intended to generally exempt all existing contracts from the scope of those provisions.[15]

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[13] First Report and Order, MM Docket No. 92-265, FCC 93-178 (released April 30, 1993), paras. 117-122; 47 C.F.R. § 76.1002(f). See 47 U.S.C. § 548(h). The Commission's "program access" preemption gave utmost deference to principles disfavoring retroactive regulation by allowing the cable operators and programmers to renegotiate their affiliation agreements to bring them into compliance by a date beyond the effective date of the regulations. See First Report and Order, MM Docket No. 92-265, supra., paras. 121-22; 47 C.F.R. § 76.1002(f). See also, e.g., Bowen v. Georgetown University Hospital, 488 U.S. 204, 208 (1988) (absent clear Congressional intent, regulations may not be applied retroactively). Sammons suggests that a similar mechanism is appropriate to allow cable operators and programmers to renegotiate price, terms and conditions that will bring the affiliation agreements in compliance with the Commission's regulations where the cable operator is entitled to and does exercise the option to offer the service on a per channel or per program a la carte basis.

[14] Report and Order, MM Docket No. 92-259, supra., para. 89; First Report and Order, MM Docket No. 92-265, supra., para. 117.

[15] Id. ("must carry"), para. 121 ("program access"); 47 U.S.C. §§ 534, 535, 548.

Section 623(j) evidences the same intent and warrants the same Commission conclusion with respect to the preemption of affiliation agreements inconsistent with the FCC's rate regulation program.

The Commission clearly has jurisdiction over programming contracts to ensure that cable rates are reasonable. Section 623's mandate is strong: The Commission has an "obligation to subscribers" to ensure that basic rates are reasonable and that cable programming service rates are not unreasonable.[16] At a minimum, in establishing the regulations for basic cable service, the Commission is required to take into account the direct cost of obtaining both broadcast and nonbroadcast video programming signals.[17] With respect to video programming signals provided as cable programming service, the Commission holds as well a broad mandate to consider not just the enumerated factors in subsections (c), but any "other factors" as well.[18]

The Cable Act as a whole clearly encompasses cable programmers and indisputably reaches cable operators in their dealings and contractual relationships with them. In addition to "program access," (section 628), which applies to satellite-delivered vertically integrated programmers,

[16] 47 U.S.C. § 543(b)(1),(2),(c).

[17] 47 U.S.C. § 543(b)(2)(C)(ii),(7)(B).

[18] 47 U.S.C. § 543(c)(2).

"carriage agreements" (section 616) applies to all programmers.[19] The Act's policy, moreover, seeks to ensure not only that rates are reasonable, but, hand in hand, that cable operators continue to expand "where economically justified, their capacity and the programs offered over their cable systems."[20] The Commission's broad and strong mandate to ensure reasonable rates clearly authorizes it to establish rate regulations that further the Act's policy goals.

III. INCENTIVE TO UPGRADE EXISTING FACILITIES

The Chairman of the FCC has propounded the guiding principle that cable operators must be given the opportunity to upgrade and expand existing cable facilities consistent

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[19]47 U.S.C. §§ 536, 548; Second Report and Order, MM Docket No. 92-265, FCC 93-457 (released October 22, 1993). Sammons filed reply comments in the rulemaking proceeding bringing to the Commission's attention, then, that except for labor costs, nonbroadcast tier programming comprises the single highest cost component (exceeding the combined costs of the other components) for regulated cable service, and that Sammons' satellite programming costs had increased 334% from 1986 to 1993. Sammons further apprised the Commission, then, that the restrictive tiering requirements of programmers (both vertically- integrated and nonintegrated) and pricing schedules based on the number of subscribers to a tier -- notwithstanding whether under the contract the cable operator is required to offer the service over the tier -- restrict the ability of cable operators to market programming services consistent with consumer demand, have forced non-marketplace subsidization of such services, and have placed unwarranted upward pressure on cable rates. See Reply Comments of Sammons Communications, Inc., MM Docket No. 92-265 (filed June 16, 1993) at 2-5.

[20]Act, Statement of Policy, Section 2(b)(3),(4).

with the needs of the information superhighway.[21] The present rules not only do not provide this incentive, they provide a significant impediment to cable operators wishing to upgrade their facilities. Although the rules do provide for regular and streamlined cost of service showings to allow cable operators to recover the cost of a network upgrade over and above the maximum permitted rate, the rules only permit such showings to be made based on plant in service at the time of the request.[22] As such, under the existing rules a cable operator must undertake a rebuild or network upgrade with no assurance that it will ever be able to recover the cost of such upgrade through an increase in regulated rates.

The Commission's assumption in paragraph 286 of the March 30, 1994 Cost of Service Order that the benchmark/price cap mechanism will provide sufficient capital to finance upgrades has proven to be incorrect. Because of the possibility that a rate authority could determine that an upgrade might not be permitted, it is absolutely imperative that the operator know,

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[21]Chairman Reed E. Hundt, Speech Before the 43rd Annual Convention & Exposition of the National Cable Television Association 5 (May 24, 1994), from FCC Daily Digest, Vol. 13, No. 96 (May 25, 1994), at 137.

[22]Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation, and Adoption of a Uniform Accounting System for Provision of Regulated Cable Service, "Report and Order and Further Notice of Proposed Rulemaking," MM Docket Nos. 93-215, et al., at ¶ 288 (released March 30, 1994) ("March 30, 1994 Cost of Service Order").

prior to construction, that it will be able to recover its costs. The likelihood that a cable operator would commit cash flow, an equity source would place equity, or a bank would provide debt, to rebuild a cable system or update a cable network without some assurance that the costs associated with the upgrade could be recovered, is de minimis. In fact, to commit debt or equity to such a speculative venture would be seriously questioned. Several parties filing comments on the cost of service NPRM in Docket No. 93-215 requested that the Commission allow for prior approval of upgrades, including where the maximum permitted rate does not provide sufficient cash flow to merit the upgrade.[23] While the Commission recognized in the March 30, 1994 Cost of Service Order that a streamlined cost of service showing would be appropriate to attract sufficient debt and equity for a rebuild, it held that such a showing could only be made after the upgrade was placed in service.[24]

The Commission need not prohibit advance approval of upgrades in order to meet the concerns expressed in paragraphs 287 and 288 of the March 30, 1994 Cost of Service Order. Sammons and TCA recommend that the Commission further amend

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[23]See, e.g., Small Cities Cable Television Comments, at 36; Tele-Media Corporation Comments, at 19; Corning Incorporated and Scientific-Atlanta, Inc. Reply Comments, at 1-8. See also March 30, 1994 Cost of Service Order, at ¶ 281.

[24]March 30, 1994 Cost of Service Order, at ¶¶ 285-288.